



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Tuesday, the 21st November, 1950

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF PAKISTAN

Tuesday, the 21st November, 1950

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

MOTION *RE* POSTPONEMENT OF CONSIDERATION OF INTERIM REPORT OF THE BASIC PRINCIPLES COMMITTEE

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : Sir, I beg to move :

"That with a view to give full opportunity to those who may be interested in offering suggestions regarding the basic principles of the constitution, the Constituent Assembly resolves not to take consideration during this session the Interim Report of the Basic Principles Committee, in order to enable the Committee to consider any concrete and definite proposals that are in conformity with the Objectives Resolution, which may be received by the office of the Constituent Assembly by the 31st of January, 1951, and to make such further recommendations as may be found necessary."

Mr. President, Sir, since the presentation of the Report of the Basic Principles Committee to this House and its publication, a large number of comments have appeared in the Press as well as from platform. These comments can be classed into three categories. Some of them are based on ignorance and inadequate appreciation of the recommendations contained in the Report. Some are deliberately intended to mislead people and create confusion. Some have been made with a genuine desire to see our constitution based on the principles laid down in the Objectives Resolution. Sir, when this House adopted the Objectives Resolution, I have no hesitation in stating that it did so without any mental reservations. It has been our earnest desire throughout to frame our future constitution in conformity with the principles that are laid down in the Objectives Resolution.

Sir, we are desirous, I would say, are determined, to frame our constitution in accordance with those noble principles because we believe that in a world today which is torn by strife, which is in a state of chaos, the Islamic principles as embodied in the Objectives Resolution are the principles which can bring peace and progress to humanity. It is our belief that Islam did not lay down these principles for any particular country or for any particular people. They are the principles which are applicable to all times and to all lands. It is now for the people of Pakistan to frame their constitution in a way which would show to the world that these principles are capable of being practised upon, that these principles are capable of providing opportunities for a people who believe in God to progress with honour, and with dignity. As such, Mr. President, it is the earnest desire of the Members of this House to do whatever they can to frame the constitution in a manner that it may be an example to other countries of the world that are seeking peace and progress.

Mr. President, it is stated in the motion that this postponement is desired for the purpose of enabling the Basic Principles Committee to examine and consider any concrete and definite suggestions that may be sent by the people with regard to the basic principles of the constitution. I am fully aware of the fact that it means some delay, but there is no other alternative, if we are anxious and desirous to do our best in this direction.

[The Honourable Mr. Liaquat Ali Khan.]

Sir, a number of people while offering criticism on the Report have just stated that it is not in accordance with the Objectives Resolution and that there are a number of principles that should have been embodied in the Report. It is an invitation and an opportunity to those people to make concrete and definite suggestions with regard to the Report as to which of its provisions are not in conformity with the Objectives Resolution and what are the reasons for their saying so. In the same manner, it is to ask people to tell us what other principles are there, which are in conformity with the Objectives Resolution, which have been left out and which can be and should be embodied in the principles which we are laying down for the framing of our future constitution. I do hope that those who are genuinely and honestly interested in framing the kind of constitution we all desire will take the fullest opportunity that is being afforded to them. It is not in the nature of a challenge that I have moved this motion; it is with the desire for seeking co-operation from all those who have a genuine desire that we should have a constitution which is the best.

Mr. President, there is no individual in the world or collection of individuals that can claim all knowledge or wisdom of the world and the members of the Constituent Assembly are no exception to this. But we do claim that whatever has been done so far has been done according to our lights in conformity with the Objectives Resolution and whatever we will do in the future will be in accordance with the Objectives Resolution because, as I have stated, Mr. President, it is not a matter of tactics with us, it is a matter of sacred belief with us.

Mr. President, it is a very great responsibility that has been placed on the shoulders of the Honourable Members of this House and I hope that every true Pakistan in this country will share that responsibility with us. We are not framing this constitution for only the Members of this House or any particular section of the people of Pakistan; we are framing this constitution for all the people of Pakistan, for their future generations and for the peace and progress of this country as a whole. And, as such, I feel that it is the duty of every Pakistani to play his part fully.

I would like once again to say, Mr. President, that it is my firm belief that if we fail in the mission which we have set before us, we shall have failed not only the people of Pakistan but we shall have failed the whole of mankind.

Mr. President : Motion moved :

"With a view to give full opportunity to those who may be interested in offering suggestions regarding the basic principles of the constitution, the Constituent Assembly resolves not to take into consideration during this session the Interim Report of the Basic Principles Committee, in order to enable the Committee to consider any concrete and definite proposals that are in conformity with the Objectives Resolution, which may be received by the office of the Constituent Assembly by the 31st of January, 1951, and to make such further recommendations as may be found necessary."

Mr. Shahoodul Haque (East Bengal : Muslim) : Mr. President, Sir, I rise to lend my wholehearted support to this motion and to heartily felicitate Mr. Liaquat Ali Khan for the wisdom and sagacity he has displayed by initiating this opportune motion which I am sure will be welcomed and warmly appreciated by all sections of the people not only in this House but also outside, barring possibly those who wanted to create disaffection and fish in troubled waters and were dreaming of getting into power, taking advantage of the widespread storm of discontent that raged all over Pakistan in its western as well as in its eastern wing over the widely resented Interim Report of the Basic Principles Committee. While this motion recognises the fact that this

House does not like to pose as the only repository of juristical wisdom on knowledge, nor its members of the Basic Principles Committee as the infallible constitutionalists, it offers a real opportunity to all those people—*bona fide* jurists, constitutionalists and well-versed *Ulema*—to offer concrete and definite proposals in connection with the basic principles keeping in view the letter as well as the spirit of the Objectives Resolution that was adopted by this House. Let us hope they will all make good use of this opportunity.

Sir, I am disposed to think that this motion will help to silence a considerable section of the people but I also know, Sir, that there will always be a section of critics who will not be satisfied with anything and who will try to find out loopholes to criticise this motion by saying that it is a move only to delay constitution-making. Sir, we all know that there is no lack of critics and need not fight shy of such critics. Who are those people, we all know. They believe that we people here do not possess the same wisdom or knowledge as are possessed by all those who have remained outside the pale of this House. This motion, which has been moved, with the best of intentions and in this spirit and in this language, will silence all those people who want to create trouble over nothing. With these words, Sir, I once again felicitate Mr. Liaquat Ali Khan for moving this motion.

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I rise to extend my hearty congratulations to the Leader of the House for bringing in this motion. The great leader of Pakistan, whom I call a man of destiny, has once more proved himself a true and great leader of humanity.

Unfortunately, with the publication of the Interim Report of the Basic Principles Committee, there has been a great agitation and very hostile comments even against the Leader of Pakistan. Sir, in some quarters these principles enunciated in the Report, have been ascribed as most undemocratic, un-Islamic and most reactionary. It has been said that the principles disclose a picture of a constitution whereby dictatorship will be established in Pakistan. Sir, it has been said in some quarters that if these principles are implemented, there will be no democracy and no Islamic constitution in Pakistan. It has also been said that provincial autonomy will disappear—there will be a unitary Central Government in Pakistan.

Sir, in East Bengal there is a growing belief—I must say that it is a wrong impression—that there are principles in the Report which, if adopted, will reduce the majority of East Bengal into a minority and it will turn East Bengal into a colony of Pakistan.

Sir, I must say, most of these criticisms are based on wrong impression and uninformed information of those who have not seriously studied the principles and have not applied their mind to them. They have only read the newspaper reports and comments and unfortunately some newspapers have made comments which are not borne out by the Report. These comments have been made with some ulterior motives to create disintegration in Pakistan. Sir, from what I know of East Pakistan, I find that almost all of them have been told that the provincial autonomy was to be abolished and that they will be made a colony of Pakistan. I have tried to wash off that feeling from the minds of the people of East Pakistan and have told them that there is no such intention of the Constituent Assembly and nor this was the intention of the Members of the Basic Principles Committee. Their intention was to draw up a constitution for Pakistan which will be Islamic and wherein everybody irrespective of caste, creed and race will be a free citizen. The Centre will be only a guiding factor ; Centre

[Mr. Nur Ahmed.]

will regulate, if necessary, in case of emergency, but will, in no case and at no time, act against the best interest of the country.

Sir, the constitution when framed will be the best constitution in the world. Sir, by the motion that the Honourable the Leader of the House has moved, the agitation that is going on will disappear. I think the motion is a welcome measure and it will silence those critics who are now agitating or saying things to misguide the people of Pakistan. Sir, by this motion they are being asked to give their suggestions and, if they fail, they will not be able to blame us. Sir, I support very strongly the motion under consideration.

Syed Abul Basher Mahmud Husain (East Bengal : Muslim) : Sir, I feel I am voicing the feeling of the whole House when I heartily welcome this motion and I am confident that the people of Pakistan would not only welcome it but congratulate the Honourable Mr. Liaquat Ali Khan for his gesture in respecting their views.

In a state like Pakistan whose fundamental basis is on Islam, the views of people must deserve consideration even when the people have entrusted their works to be done by their representatives. It is such a healthy move that the disaffection that was sought to be created by interested parties is likely to be quelled through it and this is certainly a democratic stand. It appears some stalwarts who consider themselves as the mouthpiece of at least four and half crores of Pakistanis gave out that there would have been no agitation in whatever form the basic principles of the constitution are adopted.

I am afraid, if the problems of Pakistan are not approached on the basis of population, no solution can be arrived at for the good of the people, any, it may be good for a section only but that would be disastrous.

When an opportunity is given for offering suggestions regarding the basic principles of the constitution, I would request those who are interested in offering suggestions should come forward and put forth constructive suggestions in no time.

Again, Sir, I heartily thank Mr. Liaquat Ali Khan for the sporting offer he has just made to the critics of the Report of the Basic Principles Committee.

Mr. B. L. Rallia Ram (Punjab : General) : Mr. President, I will also like to join those who have congratulated the Prime Minister in his usual liberal manner to bring forward this resolution and giving a chance to those who have criticised the constitution on the score which is so clearly enunciated in the Resolution. I feel, Sir, that the Objectives Resolution and the Fundamental Rights were the two pillars on which the constitution is being formed and both these pillars suggest that all Pakistanis are brothers, irrespective whether they are Muslims or non-Muslims and at the same time we are sure—as a non-Muslim, at least I am—that it is the duty of the State to make this constitution in full accordance with the best principles of Islam. After all it is an Islamic State and we recognise it as such. We feel, if the constitution is based on Islamic principles, our interests of minorities will also be safeguarded and therefore, we welcome every move which is made to make it more and more Islamic. I do consider that if there are people who criticise and say there are some defects in the constitution from the Islamic point of view that ought to be remedied, they should be removed in accordance with the best principles of Islam. We, the minorities, can be sure of our interests if the Constitution of Pakistan is based in accordance with all those principles.

Mr. President : Now, I am putting the motion to vote. The question is :

"With a view to give full opportunity to those who may be interested in offering suggestions regarding the basic principles of the constitution, the Constituent Assembly resolves not to take into consideration during this session the Interim Report of the Basic Principles Committee, in order to enable the Committee to consider any concrete and definite proposals that are in conformity with the Objectives Resolution, which may be received by the office of the Constituent Assembly by the 31st of January, 1951, and to make such further recommendations as may be found necessary."

The motion was adopted.

MOTION *RE*. NOMINATION TO MUHAMMADAN SEATS IN SIND
LEGISLATIVE ASSEMBLY

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : Sir, I beg to move :

"That in terms of the Government of India (Fifth Amendment) Act, 1950, this Assembly do resolve that the following persons, namely—

- (1) Qazi Ahsanul Haq, M.A., LL.B. (Alig.), Advocate, Hyderabad,
- (2) Mr. Hasan Ahmad Shah, Advocate, Giddu Road, Hyderabad,
- (3) Mr. Mohammad Ayub Quraishy, B.Sc., LL.B., Advocate, Sukkur,
- (4) Sh. Hamid Husain Faruqi, B.Sc., LL.B., Advocate, Sukkur,
- (5) Mr. M. A. Aziz, C/o Messrs. Haji Khan & Bros., Dadu,
- (6) Mr. Mohammad Usman, M.A., LL.B., Advocate, Mirpur Khas, and
- (7) Mr. Shah Nazar Hasan, *Ex-M.L.A.* (Central), Indian Legislative

Assembly, Tando Adam, District Nawabshah, shall be the persons to fill the Mohammadan seats of the present Legislative Assembly in the Province of Sind for the life time of that Assembly."

Mr. President : Motion moved :

"That in terms of the Government of India (Fifth Amendment) Act, 1950, this Assembly do resolve that the following persons, namely—

- (1) Qazi Ahsanul Haq, M.A., LL.B. (Alig.), Advocate, Hyderabad,
- (2) Mr. Hasan Ahmad Shah, Advocate, Giddu Road, Hyderabad,
- (3) Mr. Mohammad Ayub Quraishy, B.Sc., LL.B., Advocate, Sukkur,
- (4) Sh. Hamid Husain Faruqi, B.Sc., LL.B., Advocate, Sukkur,
- (5) Mr. M. A. Aziz, C/o Messrs. Haji Khan & Bros., Dadu,
- (6) Mr. Mohammad Usman, M.A., LL.B., Advocate, Mirpur Khas, and
- (7) Mr. Shah Nazar Hasan, *Ex-M.L.A.* (Central), Indian Legislative

Assembly, Tando Adam, District Nawabshah, shall be the persons to fill the Mohammadan seats of the present Legislative Assembly in the Province of Sind for the life time of that Assembly."

Mr. M. H. Gazder (Sind : Muslim) : Sir, I rise to support this motion. Sir, the Constituent Assembly when it passed this resolution had in mind that large number of Muhajirs who had come and settled permanently in Sind should have effective voice in the administration of the Province so that, not only they should contribute towards the policies which are framed for the rehabilitation of the refugees but also towards the policies for the good of the whole of the Province. Sir, the idea was that these Muhajirs should have got their seats by elections to the Sind Assembly from amongst the Muhajirs, as is being done in the Punjab, but the elections to the Sind Assembly could not be held due to practical difficulties and so it was devised that they should be elected through this Honourable House. But, Sir, we had in mind also that real representatives of these Muhajirs would be elected.

Great efforts were made to see that real representatives were elected, and the results of those deliberations and inquiries have been laid before the

[Mr. M. H. Gazder.]

House by the Leader of the House. But after this resolution was published, there has been agitation to the effect that the Rajputana States, from where 4 lakhs out of 6 lakhs have now been settled in Sind, had been completely deprived of their rights to representation. Newspaper articles have been written and our intelligentsia are perturbed. With your permission I would like to read the resolution which was passed at a meeting held in Hyderabad. A meeting of the Muhajirs of States in general and of Rajputana States in particular was held at Motimahal, Hyderabad, with Nawab Fazlur Rehman Saheb in the chair. The following resolution moved by Mr. Q. A. Shah, Advocate, was unanimously passed :

"In the considered opinion of the Muhajirs of States in general and of Rajputana States in particular, this group of four lakhs strong has been totally ignored by the Sind and the Central Muslim League Parliamentary Boards, while nominating Muhajir representatives in the Sind Assembly. It is their misfortune that their services and sacrifices in the cause of the Muslim League and Pakistan have been ignored by the Boards. It is also very disappointing that only a few thousand Muhajirs of Patiala and Ajmer have been given three seats, while this biggest group of Muhajirs settled in Sind has been given no representation.

"This meeting urges upon the Constituent Assembly to set right the wrong done to this unfortunate unit of Muhajirs who have not been considered fit even for representation in the Sind Assembly.

"This meeting is also of the opinion that the selection of the representatives has been done arbitrarily and consideration of merits, etc., has been overlooked."

Now, Sir, I find from the list that as far as Sind is concerned, we have got two representatives from Hyderabad, two from Sukkur, one from Dadu, one from Mirpurkhas and one from Nawabshah. As far as the representatives in the Assembly are concerned, they are spread over the whole of Sind. As this agitation has created some misunderstanding, I would like the Leader of the House to throw some light so that people should know the real state of affairs. I do not think representation was allotted by States or by any particular community. The representatives come from the population as a whole. If we can say that these gentlemen who have been recommended were the best and that they commanded the confidence of the Muhajirs also living in those areas, then this misunderstanding will be removed once for all.

Mr. Ahmed E. H. Jaffer (Sind : Muslim) : Sir, as a representative of refugees of Sind in this honourable House, I would like to support this motion. While doing so, I should be failing in my duty if I did not congratulate the Honourable the Prime Minister in bringing forward this motion. Not only is the motion before the House today but it is a unique thing in the history of the refugees of Sind that they are getting seven seats and they are being declared elected if this honourable House passes this resolution.

The history of these seats is not a very old one. As you will remember, Sir, not long ago this honourable House passed a motion giving seven seats to the poor refugees of Sind who had come from different parts of India. It may be, as my honourable friend Mr. Gazder says, that it is very difficult indeed for anyone to please all the applicants who had offered themselves for these seats. The Central Parliamentary Board did consider

Mr. President : I do not think you should bring in the internal machinery of any particular party.

Mr. Ahmed E. H. Jaffer : I am not going to do that. What I am trying to tell you is this that, whatever may be the merits of the case, the fact remains that today seven representatives from the refugees of Sind are getting seats in the Sind Assembly. Whatever may be the merits of the case, the fact remains that seven persons have been elected today. If this

honourable House had not adopted the resolution which it did some months ago, whereby it was given to this House to elect these representatives, I am afraid the picture might have been quite different as it was in some other cases. Therefore, I suggest that the motion, as it stands before the House, is one which requires full support of this House, so that the representatives whose names are before the House may be declared elected. I am confident that the refugees of Sind are very happy that they are getting this representation in the Sind Assembly which was long over-due. When the Sind Assembly meets, they will be declared elected. I fully support this motion.

The Honourable Mr. Liaquat Ali Khan : Mr. Gazder has raised certain points. When I moved this motion, I had in view the general interests of the refugees and not the interest of any particular section coming from any particular area. I submit, Sir, that the interests of the refugees are common and it is wrong to say that for such and such area there should have been so and so and that for such and such area there should not have been so and so ; I do not think that is really very relevant. I have moved these names which according to us are most suitable from amongst the refugees who could effectively represent them in the Sind Legislative Assembly. It is really impossible to say who represents the refugees and who does not : that can only be done if there were an election by the refugees themselves, and Mr. Gazder is fully aware of the many tactics that are adopted by people who are seeking elections or nominations to various legislatures. What the House should see is whether these people in the opinion of the House are capable of representing the interests of the refugees in the Sind Assembly. I submit, Sir, that the interests of refugees are common and it would be wrong to divide them into so many different compartments.

Mr. President : The question is :

"That in terms of the Government of India (Fifth Amendment) Act, 1950, this Assembly do resolve that the following persons, namely—

- (1) Qazi Ahsanul Haq, M.A., LL.B. (Alig.), Advocate, Hyderabad,
- (2) Mr. Hasan Ahmad Shah, Advocate, Giddu Road, Hyderabad,
- (3) Mr. Mohammad Ayub Quraishy, B.Sc., LL.B., Advocate, Sukkur,
- (4) Sh. Hamid Husain Faruqi, B.Sc., LL.B., Advocate, Sukkur,
- (5) Mr. M. A. Aziz, C/o Messrs. Haji Khan & Bros., Dadu,
- (6) Mr. Mohammad Usman, M.A., LL.B., Advocate, Mirpur Khas, and
- (7) Mr. Shah Nazar Hasan, *Ex-M.L.A.* (Central), Indian Legislative

Assembly, Tando Adam, District Nawabshah, shall be the persons to fill the Mohammadan seats of the present Legislative Assembly in the Province of Sind for the life time of that Assembly."

The motion was adopted.

THE GOVERNMENT OF INDIA (NINTH AMENDMENT) BILL

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935.

(After a pause.)

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I beg to move :

"That the Bill further to amend the Government of India Act, 1935, be taken into consideration."

[The Honourable Pirzada Abdus Sattar Abdur Rahman.]

Sir, this Bill has become necessary because we have got constitutional provisions at present requiring that for the sessions sitting of the Federal Court three Judges would be necessary. The strength of our Federal Court at present is three Judges. Therefore, Sir, if for any reason one of them is unable to perform his duties the whole work of the Court stops. We have got under the present Constitution certain provisions for temporary appointments : that if a Judge goes on leave, or there is a vacancy for any other reason, then the Governor-General may make temporary appointments, but temporary appointments usually take long, as they have to be on the recommendation of the Chief Justice and you have got to go into the relative merits of the persons you are appointing and therefore it takes very long and the object is frustrated and that time of the Federal Court goes waste. Therefore, Sir, it was thought necessary to make provision for *ad hoc* appointments, by which the Chief Justice of Pakistan, after consulting with the Chief Justice of a particular High Court and with the previous consent of the Governor-General, might request in writing one of the Judges of a High Court to come and sit in the Federal Court and perform his duties as a Federal Court Judge. Now this will not be a temporary appointment ; this will only be an *ad hoc* appointment for that purpose for which he has been sent for but that Judge certainly will be performing his duties as a Judge of the Federal Court and his position will be that of a Judge of the Federal Court.

It was, Sir, thought necessary to re-write sub-sections (2) and (3) of section 202 of the Government of India Act, 1935, which provided for temporary appointments of Judges generally in all cases for any special reason. Now they have been so revised as to make provision only for those cases in which a Judge of the Federal Court has been appointed as Chief Justice or in other two cases enumerated as (2) and (3) in clause 2 of the Bill and general provision has been made in the case of *ad hoc* appointments : that if for any special reason a Judge of the Federal Court cannot sit in the Federal Court, then *ad hoc* appointment may be made in the manner that I have just related.

The second provision is about the powers of Judges while sitting singly or in Division Benches. Of course, we have got provisions at present that the minimum number of Judges will be three. Now that means that even in procedural matters and *interim* matters like stay, bail and other things, all the three Judges must definitely sit. There is no provision in the rules at present to provide for single and Division Judges sitting and disposing of these matters. Therefore, Sir, a provision has been made in the rule-making power of the Federal Court, which Rules again are made with the consent of the Governor-General, that rules might be made deciding when Judges might sit singly or in Division Benches and what powers they will have and what sort of work they will be disposing of. As will be found in the Statement of Objects and Reasons, it has been made clear that strictly judicial functions of the highest Tribunal, that is the Federal Court, will be performed by at least three Judges.

Therefore, Sir, this is a necessary Bill and I commend it to the House.

Mr. President : The question is :

"That the Bill further to amend the Government of India Act, 1935, be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I beg to move :

“That the Bill be passed.”

(At this stage, the Honourable Mr. Abdul Hamid rose to speak.)

Mr. President : Do you want to say anything ?

The Honourable Mr. Abdul Hamid (East Bengal : Muslim) : Sir, we may agree to allow this procedure to continue only for some time. The Federal Court being the highest Court of Pakistan, the practice of introducing High Court Judges in the Federal Court to sit with the Federal Court Judges is not very desirable and should not continue for a very long time. If you do so, it will adversely affect the prestige of the Federal Court. Even in procedural matters I do not think we should go in for special legislation to enable a single Judge to decide things. Two heads are always better than one head and in ordinary circumstances I do not think that one Judge should decide such procedural matter as will enable appointment or other Judges of the Federal Court. This will not be very desirable. The fundamental consideration in adopting any modification of the Federal Court should be to maintain the confidence of the people and citizens of Pakistan in the absolute impartiality and independence of the Federal Court. Nothing, in normal times, be done to disturb that. I do think that any measure which might be necessitated at the present moment should be remedied when things are better so that public confidence in Federal Court may remain unchanged. I do not oppose the measure but I do not desire that this power should be exercised too frequently. Only in exceptional circumstances they may have recourse to this power.

Shri Dharendra Nath Dutta (East Bengal : General) : I want to make one suggestion that it has been laid down in clause 3 of the Bill

The Honourable Mr. Mahmud Husain (East Bengal : (Muslim) : Sir, this is not the stage at which clauses can be considered separately.

Mr. President : Let us see what the suggestion is.

The Honourable Khan Sardar Bahadur Khan (N.-W. F. P. : Muslim) : How can he make any suggestions at this stage ?

Mr. President : Do you want to suggest any amendment ?

Shri Dharendra Nath Dutta : No. Certainly not. I know what it is. In sub-section (3) it has been said that the rules made under this section may fix the minimum number of Judges who are to sit for any purpose and may provide for the powers of Judges sitting singly and in any division of the Court. I am quite sure that in making rules the decisions of a single Judge should be subject to the revision of the Federal Bench. I have only this suggestion and not amendment to make that in making rules as provided in section 3 this may be taken into consideration. With these few words I support the motion.

The Honourable Pirzada Abdus Sattar Abdur Rahman : So far as the point raised by Mr. Abdul Hamid is concerned I do not know how he thinks that the present Act is a permanent provision. He is aware that the Constituent Assembly is making the constitution and the Judiciary Committee has submitted or is about to submit its report and the structure of the Federal Court will be coming up before the Constituent Assembly. This is only an interim legislation until the constitution is framed and as my friend does not like the appointment of *ad hoc* Judge certainly

[The Honourable Pirzada Abdus Sattar Abdur Rahman.]

he can oppose it and see to it that there is no such provision in the new constitution. To say that this is a permanent provision is out of place.

With regard to the other point about the powers of the Judges I have already made it clear that all the judicial functions of the Federal Court will be performed by not less than three Judges and so far as the rest of the matters are concerned certainly, as Mr. Dutta has suggested, it will be taken into consideration that the decision of a single Judge of a High Court will not be upset by a single Judge of the Federal Court. There will be two Judges. Similarly the decisions of two Judges of High Court will not be upset by two Judges of Federal Court; there will be more than that number. And certainly the Federal Court itself and also the Government will see that the prestige of the highest Court of Judicature remains intact and therefore all these matters will be taken into consideration when the rules, as authorised in this sub-section, are framed by the Federal Court.

Mr. President : The question is :

“That the Bill be passed.”

The motion was adopted.

MOTION *RE* : SALARY AND ALLOWANCES OF THE PRESIDENT

The Honourable Dr. Mahmud Husain (East Bengal : General) : Sir I beg to move the following :

“The Constituent Assembly resolves :

(A) that in the motion regarding the salary and allowances of the President passed by the Constituent Assembly on the 5th January, 1950—

(1) after sub-clause (d) of clause (3), the following new sub-clause be inserted, namely—

‘(dd) The President shall be entitled for journeys performed by road beyond a radius of five miles from his headquarters,

Now here, Sir, I am making a little change with your permission.

to such mileage allowance as is allowed to a Minister of the Central Government, if; a public conveyance is used. In other cases, he shall be entitled to actual travelling expenses not exceeding the mileage allowance admissible if a public conveyance had been used’; and

(2) after sub-clause (h) of clause (3), the following sub-clause be inserted, namely—

‘(i) The President, travelling on official business outside Pakistan, shall be entitled to the same allowances during the period of his travel as are admissible to a Minister of the Central Government of Pakistan’; and

(B) that these amendments shall take effect from the first April, 1950”.

Mr. President : What is the actual change that you have made.

The Honourable Dr. Mahmud Husain : I am dropping out the words ‘to a mileage allowance of eight annas per mile’ and these words are being replaced by the words ‘to such mileage allowance as is allowed to Ministers of the Central Government’.

Sir, it is not necessary to make a long speech on this. The House will remember that they passed a motion on the 5th January, 1949, in which they decided the question of the pay and allowances of the Honourable President. However it has been noticed that there are two matters with regard to which there is no provision : one is regarding travelling by road and the other when the President has to travel abroad. It is necessary to make some provision with

Mr. President : The question is :

"The Constituent Assembly resolves :

(A) that in the motion regarding the salary and allowances of the President passed by the Constituent Assembly on the 5th January, 1950—

(1) after sub-clause (d) of clause (3), the following new sub-clause be inserted, namely—

‘ (dd) The President shall be entitled for journeys performed by road beyond a radius of five miles from his headquarters, to such mileage allowance as is allowed to a Minister of the Central Government, if a public conveyance is used. In other cases he shall be entitled to actual travelling expenses not exceeding the mileage allowance admissible if a public conveyance had been used ’; and

(2) after sub-clause (h) of clause (3), the following sub-clause be inserted, namely—

‘ (i) The President, travelling on official business outside Pakistan, shall be entitled to the same allowances during the period of his travel as are admissible to a Minister of the Central Government of Pakistan ’; and

(B) that these amendments shall take effect from the first April, 1950 ”.

The motion was adopted.

Mr. President : The House stands adjourned till 10-30 A.M. on the 25th instant.

The Assembly then adjourned till Half Past Ten of the Clock, on Saturday, the 25th November, 1950.
